

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
SEPTEMBER 18, 2001**

**CALL TO ORDER**

The 1870<sup>th</sup> meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Larry Lancaster  
Brian Newman

Jeff Marshall

**Staff Present:**

Pat DuVal,  
City Recorder  
Tim Ramis,  
City Attorney  
Alice Rouyer,  
Planning Director  
John Gessner,  
Senior Planner  
Michelle Gregory,  
Neighborhood Services Manager  
Randy McCort,  
Consultant  
Scott Burgess  
Comm. Dev. Dir. Pro Tem  
Officer Monte Sterling,  
Police Department  
Officer Uli Neitch,  
Police Department

Sgt. Mark Dye,  
Police Department  
Dennis Lively,  
City Engineer  
Brion Barnett,  
Associate Engineer  
Larry Kanzler,  
Police Chief  
Mary Dorman,  
Consultant  
Roosevelt Carter,  
Program Service Coord.  
Carla Atwood,  
Accounting Technician, Utility Billing  
Jay Saatkamp,  
Operations Supervisor, Water

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARD**

**Mayor Bernard** read a proclamation recognizing September 17 - 23, 2001, as Constitution Week.

**Mayor Bernard** read a proclamation recognizing the week of October 7<sup>th</sup> – 13<sup>th</sup> as Healthcare Food Service Employee Week.

**Councilor Newman** read a proclamation recognizing October 2, 2001, as Walk Our Children To School Day in Milwaukie and encouraged everyone to consider the safety of pedestrians today and every day. This event will take place at Ardenwald School with the parents and children meeting at 32<sup>nd</sup> Avenue and Wake Street at 7:30 a.m. to walk to school.

**Mayor Bernard** read a letter from General Tanaka, Mayor of Milwaukie's Sister City, Iwaki, Japan. He expressed his sympathy for the victims, families, and the nation for the September 11, 2001, attacks in New York City and Washington, D.C.

**Mayor Bernard** then asked the audience to take a moment of silence in light of the actions of last week. Jennifer Mansfield sang the National Anthem.

**Chief Kanzler** announced special recognition to two officers for service above and beyond the call of duty. In the history of the Milwaukie Police Department there have been many officers who have put their lives ahead of their own personal safety and gone the extra mile with extra effort to save human lives. This is a new process for recognizing the individuals for this exceptional effort. He introduced Sgt. Mark Dye and Officer Ulrich Neitch.

**Officer Sterling**, Milwaukie Police Department, read the Citation of Award, Police Meritorious Service Medal, to the Council. **Mayor Bernard** made the presentations to Officers Sterling and Neitch.

**Mayor Bernard** read a proclamation which urged the citizens to extend their support to the victims of the New York and Washington tragedies in any way possible, including donations of blood and materials. The City Council and Mayor asked its citizens to hold the victims and their families, friends and co-workers in their thoughts. Remember the professionalism and the price paid by the fire fighters and police officers that responded. The Mayor and Council asked its citizens to pray for the wisdom for the leadership of the state for the City of New York and the United States. A moment of silence was observed for the victims of this horrible tragedy.

## **CONSENT AGENDA**

**Mayor Bernard** read the list of consent agenda items:

- A. City Council Minutes of September 4, 2001**
- B. Center/Community Advisory Board Requests:**
  - 1. Bylaws Change**
  - 2. Board Re-appointments of Milwaukie residents 2002 Salary Schedule and Recognized Changes Negotiated with Represented Employees**
- C. Management, Non-represented and Seasonal Employees Fiscal Year 2001 – 2002 Salary Schedule and Recognized Changes Negotiated with Represented Employees**
- D. Intergovernmental Agreement for Funding Watershed Activities**
- E. Resolution 30-2001: A Resolution of the City Council of the City of Milwaukie, Oregon, Adopting a New Capital Improvement Plan.**

**It was moved by Councilor Newman and seconded by Councilor Marshall to adopt the consent agenda. Motion passed unanimously among the members present.**

## AUDIENCE PARTICIPATION

None.

## PUBLIC HEARING

Transportation System Plan Implementation Amendments: ZA-01-02 & CPA-01-02

**Mayor Bernard** called the public hearing on the proposed legislative Zoning and Subdivision Ordinance Text Amendments to order at 6:17 p.m.

The purpose of this hearing is to consider 4 legislative actions that would implement the Milwaukie Transportation System Plan.

Staff Report: **Gessner** acknowledged and gave credit to the technical advisory team: Alice Rouyer, Planning Director; Dennis Lively, City Engineer, Brion Barnett, Associate Engineer; Michelle Gregory, Neighborhood Services Manager; and Paul Roeger, Civil Engineer. The consultants to the city on this project are Mary Dorman and Randy McCort. Without their help, this project would not have succeeded.

Staff has been working on this project for the past nine months. There have been eight work sessions, a number of neighborhood association meetings, and extensive outreach with the private sector. The Council and Planning Commission have given direction that has been incorporated into the regulations.

The actions being requested tonight include:

1. Adopt the proposed ordinances amending the Comprehensive Plan and Zoning and Subdivision Ordinances for the purpose of implementing the Milwaukie Transportation Plan.
2. Amend the Zoning and Subdivision Ordinances to adopt Traffic Impact Analysis regulations.
3. Adopt two resolutions; one establishing a fee for the city review of traffic impact studies, and two, adopt a Transportation Design Manual.
4. Minor administrative changes incorporated into the revisions at the work session and incorporate by reference the minutes of the proceedings of all prior work sessions and public hearings.

In terms of other stakeholder issues, Attorney Mark Whitlow is requesting the city to consider developing a transferable system development charge credit. Staff and the technical advisory committee believe this has merit. The Planning Commission, on October 14, 2001, passed a resolution recommending approval of this credit to Council. This is an issue that will be addressed in the near future.

**Gessner** passed out correspondence received from Mark Whitlow today regarding Comments on Proposed ZA-01-02 (Zoning and Subdivision Ordinance Amendments). Staff is in support of working with Mr. Whitlow on his request to draft a procedure for adjusting the maximum building setback.

**Gessner** asked that the Council adopt the regulations tonight as proposed and they will follow up with Mr. Whitlow and see what can be done to respond to his concerns.

**Councilor Marshall** thanked everyone who worked on this project and congratulated them on the exceptionally well-done project.

Public Testimony:

**Mark Whitlow**, 1211 SW 5<sup>th</sup>, Portland, stated that he was an attorney and here on behalf of the Oregon Worstead Company. Mr. Dietrick, principal of the company, is also here to provide testimony.

Building orientation has been very controversial throughout the region. There has been a lot of debating and discussions in the communities, cities and counties on this issue. It is better to have a flexible program because it is very hard to anticipate in advance the problems you run into by applying the same rule for each development opportunity that comes up.

**Whitlow** suggested Council adopt language for an adjustment process. Language has been drafted by Mr. Whitlow for Council review and adoption. He explained that his firm is happy to work with staff on this issue if Council chooses to go forward with the adoption. He would prefer that the Council adopt this process tonight and they will continue to work with staff on further refinement after implementation. He suggested that Council direct staff to collect comments about the public needs for the first year to further adjust and refine this language.

**Howard Deitrick**, Oregon Worstead, Inc., stated that this is a long-needed plan. It will address the concerns of the community better than past proposals. The principal issue is mass transit. The need for transit is very important. The orientation of the buildings to the transit will make it acceptable depending on the site and how it is developed. It is important to have flexibility to increase mass transit. With the adoption of this amendment, each project can be assessed so that mass transit can be considered more fully.

**Councilor Newman** asked if the intent of these regulations is to take advantage or improve access of the transit riders to the buildings and improve the pedestrian environment of the street. **Gessner** stated that these are the two major affects; however, if you can reduce the walking distance between a transit stop and building, it may encourage transit access. The 30-foot provision does not contribute to an adverse pedestrian access for those who travel by transit exclusively. This would only apply at major transit stops. Staff is reviewing an adjustment rather than the TPR provision where the setbacks are only at major transit stops.

Staff Comments: **Gessner** stated that staff is asking that the Council adopt the regulations as proposed and they will work with Mr. Dietrick and Mr. Whitlow to draft an adjustment process.

Close Public Hearing: **Mayor Bernard** closed the public testimony portion of the hearing at 6:40 p.m.

Council Decision:

**Councilor Lancaster** stated that he likes flexibility so the right thing can be done in spite of any inherent defects with existing ordinances. Staff needs time to make sure that the language is right and that it will work for Milwaukie's needs and purposes are for these areas. He looks forward to staff bringing back suggested changes.

**Councilor Marshall** thanked John for keeping the Council so well-informed about this issue. **Mayor Bernard** thanked staff for their dedication and sincerity.

Ordinance for Application ZA-01-02

**Councilor Newman** moved for the first reading by title only of the ordinance amending the zoning ordinance to implement the Transportation System Plan with the additional language increasing the \$200,000 value threshold by 3% annually and striking the language requiring Council approval of design manual changes. **Councilor Marshall** seconded. Motion passed unanimously among the members present. The ordinance was read for the first time by title only and including those sections changed.

**Councilor Marshall** moved for the second reading by title only of the ordinance amending the zoning ordinance to implement the Transportation System Plan with the additional language increasing the \$200,000 value threshold by 3% annually and striking the language requiring Council approval of design manual changes. **Councilor Newman** seconded. Motion passed unanimously among the members present. The ordinance was read for the second time by title only and including those sections changed.

**Councilor Marshall** moved to adoption of the ordinance amending the zoning ordinance to implement the Transportation System Plan with the additional language increasing the \$200,000 value threshold by 3% annually and striking the language requiring Council approval of design manual changes. **Councilor Newman** seconded.

**Ayes:** Newman, Lancaster, Marshall, Bernard

**Nays:** None.

The motion passed unanimously among the members present.

**ORDINANCE NO. 1893**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADOPTING CERTAIN TEXT AMENDMENTS RELATED TO IMPLEMENTING THE CITY TRANSPORTATION SYSTEM PLAN.**

Ordinance for Application CPA-01-02

**Councilor Lancaster moved for the first reading by title only of the ordinance amending the Comprehensive Plan by adopting certain amendments related to implementation of the Milwaukie Transportation System Plan. Councilor Marshall seconded. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.**

**Councilor Newman moved for the second reading by title only of the ordinance amending the Comprehensive Plan by adopting certain amendments related to implementation of the Milwaukie Transportation System Plan. Councilor Lancaster seconded. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.**

**Councilor Marshall moved to adopt the ordinance amending the Comprehensive Plan by adopting certain amendments related to implementation of the Milwaukie Transportation System Plan. Councilor Newman seconded. Motion passed unanimously among the members present.**

**Ayes: Newman, Lancaster, Marshall, Bernard.**

**Nays: None.**

**ORDINANCE NO. 1894:**

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN BY ADOPTING CERTAIN AMENDMENTS RELATED TO IMPLEMENTATION OF THE MILWAUKIE TRANSPORTATION SYSTEM PLAN.**

Resolution Setting Fees for Impact Studies

**Councilor Newman moved to adopt the resolution setting a fee for the transportation impact study. Councilor Lancaster seconded. Motion carried unanimously among the members present.**

**RESOLUTION NO. 31-2001:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SETTING A FEE FOR CITY REVIEW OF TRANSPORTATION IMPACT STUDIES RELATED TO LAND USE PROPOSALS.**

Resolution Adopting the Transportation Design Manual

**Councilor Newman moved to adopt the resolution adopting the Milwaukie Transportation Design Manual. Councilor Marshall seconded. Motion passed unanimously among the members present.**

**RESOLUTION NO. 32-2001:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE MILWAUKIE TRANSPORTATION DESIGN MANUAL.**

**OTHER BUSINESS**

Safeway Property Redevelopment

**Carter** reviewed staff report. The purpose of this agenda item is to seek Council approval of a \$750,000 community-incentive fund loan from Oregon Housing and Community Development Department to purchase the Safeway property. The term of the loan is 15 years at 1% interest per year, payable annually. There is a particular provision in the loan agreement that precludes the sale lease of the property to a developer or other persons without the written consent of the state. A draft side letter being negotiated by the City Attorney has been included to address flexibility in dealing with the lender.

Council approval authorizes the execution of the loan documents and option to purchase the Safeway property per the current lease agreement.

**Councilor Marshall moved to adopt the resolution approving the terms and conditions of a loan from the Oregon Housing and Community Services Department to purchase the Safeway property. Mayor Bernard seconded the motion. Motion passed unanimously by the members present.**

**RESOLUTION NO. 33-2001:**

**A RESOLUTION OF CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE TERMS AND CONDITIONS OF A LOAN FROM THE OREGON HOUSING AND COMMUNITY SERVICES (OHCS) DEPARTMENT TO PURCHASE THE SAFEWAY PROPERTY IN DOWNTOWN MILWAUKIE.**

## Water Shut Off Policy – Ordinance & Resolution

**Burgess** reviewed staff report. Staff is requesting that the Council adopt the ordinance and resolution amending the City policies on utility notification and shut-offs for delinquent accounts. The City Manager asked that staff review the shut-off policy for consistency, equity and cost recovery. There are approximately 6,500 residential and business utility bills are sent monthly; half of the city is done one month and the other half the next month. About 525 bills are past due on average. Of those, 65 shut-offs result.

The changes in the ordinance and fee-setting resolution are:

1. Provide additional notice via door hanger for delinquent residential accounts 24 hours prior to shutting off water service.
2. Following notice, shut off water service for delinquent residential and business accounts that receive City water.
3. Add a \$5.00 past due notice fee.
4. Limit after hour times when water service will be restored.
5. Charge an additional \$25 if after hour service restoration is requested.
6. Add language in the sanitary sewer code section allowing the City at its option to shut off water (assuming that service is provided) for nonpayment as it is in the storm water code section.
7. Amend language to the sewer service section that allows the City to charge 10% per year on all accounts that remain delinquent for more than three months to cover interests and collection costs.

**Councilor Newman** asked for clarification of the \$5.00 past due notice fee. Does the \$25 fee kick in after three months? **Burgess** stated that the \$5 covers the actual cost of the past due notice after the bill. There is an additional \$25 charged for after-hour restoration of services. **Atwood** explained the billing timetable:

- Regular billing mailed on the last day of the month. This bill is due on the 15<sup>th</sup> of the month. It is considered delinquent on the last day of the month.
- On the first of the following month a past-due notice will be sent. A \$5 charge is assessed on the first of the month following billing. This past due notice is due 15 days after it is mailed out. This is 46 days after initial billing.
- On the third Tuesday, if the delinquent bill is not paid, a door hanger will be printed and an additional \$25 charge is then assessed. This door hanger gives 24-hour notice of shut-off.
- Shut-off is approximately 49 days from the initial billing date.

**Atwood** stated that the majority of the 65 shut-offs are reoccurring accounts. Special arrangements can be made to work with the residents before shut-offs are done. The goal of the department is to reduce the number of shut-offs.

**Councilor Lancaster** stated that he would like a process where the full cost of the inconvenience of shut-off is the responsibility of the resident. **Burgess** stated that they will collect data on return-to-service time involved and report back to the Council on their findings by means of a proposal or revised data.

**Sally Jacob**, 10500 SE 44<sup>th</sup> Avenue, voiced concern about a recession. There will be so many layoffs. She remembers that the city had a charity program for those unable to pay their utility bills. She asked if the Council is taking into consideration that part of the population that might find it difficult to pay for water. **Atwood** stated that people who are unable to pay their water bills because of special circumstances are referred to the low-income program that allows customer, by income, to pay a reduced rate. These residents must meet the guidelines based on how many people are living at their residence. Arrangements can be made to pay a smaller amount monthly so as to keep their bi-monthly bill lower. Staff can refer residents to other organizations for assistance in payment of their water bills.

**Councilor Marshall** suggested that assistance information be placed on one side of the past-due notice door hanger. **Atwood** stated that low-income information could be placed on the door hangers. **Burgess** stated that the intent of the door hanger is to get the resident's attention that shut off is pending. Public awareness on low-income information can be done through the *The Pilot* and other avenues.

It was the consensus of the Council to wait six months to see how this new process works on deterring shut offs.

**Councilor Lancaster** moved to increase the after-hour return to service fee to \$80/hr. **Councilor Marshall** seconded. Motion carried unanimously among the members present.

**Councilor Lancaster** moved for the first reading by title only of the ordinance amending the municipal code sections relating to utility fees and water service shut off. **Councilor Marshall** seconded. Motion carried unanimous among the members present. The ordinance was read for the first time by title only.

**Councilor Marshall** moved for the second reading by title only of the ordinance amending the municipal code sections relating to utility fees and water service shut off. **Councilor Newman** seconded. Motion carried unanimous among the members present. The ordinance was read for the second time by title only.

**Councilor Lancaster** moved to adopt the ordinance amending the municipal code sections relating to utility fees and water service shut off as amended. **Councilor Marshall** seconded. The motion passed unanimously among the members present.

**Ayes: Newman, Lancaster, Marshall, Bernard**

**Nays: None.**

**ORDINANCE No. 1895**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING SECTIONS 13.04.110, 13.04.120, 13.12.070, AND 13.14.060 OF THE MILWAUKIE MUNICIPAL CODE RELATING TO UTILITY FEES AND WATER SHUTOFF SERVICE.**

Other Information: None.

**ADJOURNMENT**

**It was moved by Councilor Newman and seconded by Councilor Lancaster to adjourn the meeting. Motion passed unanimously among the members present.**

**Mayor Bernard** adjourned the meeting at 7:45 p.m.

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Shirley Richardson, Recorder